

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PF-U-12-134-E
: :
WEST PIKELAND TOWNSHIP :

PROPOSED ORDER OF UNIT CLARIFICATION

On December 6, 2012, West Pikeland Township (Township) filed with the Pennsylvania Labor Relations Board (Board) a petition for unit clarification seeking to exclude the position of Chief of Police (Chief) from the Township's bargaining unit of police officers. On January 4, 2013, the Secretary of the Board issued an order and notice of hearing directing that a hearing be held on February 27, 2013, in Harrisburg. After several granted continuance requests, the parties agreed to enter into a joint stipulation of facts instead of participating in a hearing. The parties filed joint stipulation of facts on November 25, 2013.

The hearing examiner, on the basis of the stipulated facts and all matters of record, makes the following:

FINDINGS OF FACT

1. The Township is a political subdivision within the meaning of Act 111, as read with the Pennsylvania Labor Relations Act (PLRA). (Stip. of Facts ¶ 1).
2. The West Pikeland Police Officers' Association (Union) is a labor organization and is the exclusive representative of the Township's police officers within the meaning of Act 111 and the PLRA. (Stip. of Facts ¶ 3).
3. The Chief actively recruits full and part-time police officers. He controls and performs screening of candidates throughout the interviewing process, without needing the consent of the Township's board of supervisors. (Stip. of Facts ¶ 4).
4. The Chief performs or designates an individual to perform all background checks on candidates for hire and reviews the qualifications of each candidate and determines the candidates he would like to hire as police officers. (Stip. of Facts ¶ 5).
5. The Chief effectively recommends the candidates to be hired as Township police officers to the Township board of supervisors. (Stip. of Facts ¶ 6).
6. The Township board of supervisors has always accepted the Chief's hiring recommendations. (Stip. of Facts ¶ 7).
7. The Chief is responsible for all disciplinary actions for all police department employees. (Stip. of Facts ¶ 8).
8. The Chief has issued discipline, such as suspensions and reprimands, of full-time and part-time officers. Such discipline was not

reviewed by the Township board of supervisors prior to being implemented by the Chief. (Stip. of Facts ¶ 10).

9. The Chief created the West Pikeland Township Police Policy, Rules and Regulations (i.e., the Policy Manual). (Stip. of Facts ¶ 12).

10. The Policy Manual became effective March 1, 2007, with no changes by the Township board of supervisors. (Stip. of Facts ¶ 13).

11. The Chief personally signed and implemented all 36 of the Police Department's General Orders without approval from the Township board of supervisors. (Stip. of Facts ¶ 14).

12. The Chief has developed the Department's Job Classifications, Duties and Responsibilities (General Order 7-24) without approval from the Township board of supervisors. (Stip. of Facts ¶ 15).

13. The Chief has developed the Department's Patrol Officer Self-initiated activity requirements per shift without approval from the Township board of supervisors. (Stip. of Facts ¶ 16).

14. The Chief has coordinated and developed mutual aid assistance agreements with neighboring police departments without approval from the Township board of supervisors. (Stip. of Facts ¶ 17).

15. The Chief develops and effectively recommends the annual operating budget and capital budgets for the police department. (Stip. of Facts ¶ 18).

16. The Township board of supervisors has accepted the Chief's budgets usually without alteration. Those times when there was an alteration, those changes were not significant or substantive. (Stip. of Facts ¶ 19).

17. The Chief has tracked and allocated line items for purchases in the yearly budget throughout the years. (Stip. of Facts ¶ 20).

18. The Chief makes purchases without prior approval throughout the year, and initiates and approves all Department purchasing. (Stip. of facts ¶ 21).

19. The Chief approves the Department's schedule for all officers. He approves or disapproves all overtime and extra details within the budget. (Stip. of Facts ¶ 23).

DISCUSSION

In FOP Star Lodge No. 20 v. Commonwealth of Pennsylvania, PLRB, 522 A.2d 697 (Pa. Cmwlth. 1987), aff'd per curiam, 522 Pa. 149, 560 A.2d 145 (1989) (Star Lodge), the Commonwealth Court set forth six criteria of managerial status for firefighters and police officers under Act 111. Under Star Lodge, the Township has the burden of proving the following:

[T]hat the [employee in the position] has authority to initiate departmental policies, including the power to issue general directives and regulations; he [or she] has the authority to develop and change programs of the department; he [or she]

engaged in overall personnel administration as evidenced by effective involvement in hiring, serious disciplinary actions and dismissals; he [or she] effectively prepared budgets, as distinguished from merely making suggestions; he [or she] effectively engaged in the purchasing process, as compared to merely providing suggestions; or he [or she] has the authority to commit departmental resources in dealing with public groups. [Fraternal Order of Police Lodge No. 20 v. PLRB (Star Lodge), 522 A.2d 697, 704 (Pa. Cmwlth. 1987, aff'd, 522 Pa. 149, 560 A.2d 145 (1989))]. Significantly, the test for managerial status under Act 111 is disjunctive and not conjunctive, such that the performance of any of the above functions results in a finding of managerial status.

In the Matter of the Employees of Elizabeth Township, 37 PPER 90 at 291 (Final Order, 2006) (citing Star Lodge, supra) (emphasis added).

The stipulations support the conclusion that the Chief is a management level employe because he has exercised the authority to develop and formulate departmental policies, including the power to issue general directives and develop a Department Policy Manual. He has developed and changed programs within the Department, such as the patrol officer self-initiated activity requirements, as well as outreach programs to residents, businesses and visitors. The Chief personally signed and implemented all 36 of the Department's General Orders. Moreover, he has imposed serious discipline on officers under his command without prior approval from the board of supervisors. The Chief controls and performs the screening and interviewing of candidates for hire. He selects the candidates and his recommendations for hire have always been approved by the board of supervisors. Additionally, the Chief has developed a capital and operating budget for the Department that the board of supervisors has adopted without change in most years. When there have been changes, those changes are minor and insubstantial. The Chief has also exercised the managerial authority to allocate Department resources by entering into mutual aid agreements with neighboring departments without prior board approval. These agreements commit the Department to expending man-hours, equipment and resources to other municipalities for aid when called upon to do so pursuant to the agreement.

CONCLUSION

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The Township is a political subdivision within the meaning of Act 111 as read with the PLRA.
2. The Union is a labor organization within the meaning of Act 111 as read with the PLRA.
3. The Board has jurisdiction over the parties.
4. The Township's Chief of Police is a managerial employe and is properly excluded from the bargaining unit.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA as read with Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

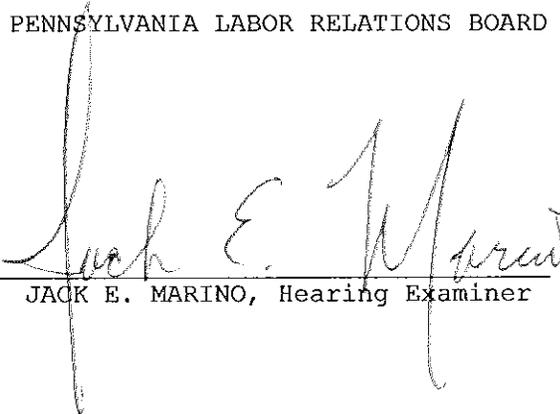
that the Chief of Police is excluded from the bargaining unit.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this order shall be and become absolute and final.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this thirteenth day of January, 2014.

PENNSYLVANIA LABOR RELATIONS BOARD



A handwritten signature in cursive script, reading "Jack E. Marino", is written over a horizontal line. The signature is positioned above the printed name and title.

JACK E. MARINO, Hearing Examiner